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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/992,504 12/17/97 HOLLAND

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PM92/0910

EXAMINER

HEISEY, D

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 09/10/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/992,504

Applicant(s)
Edward W. Holland And Marie L. Anderson

Examiner
David Heisey

Group Art Unit
3632



☒ Responsive to communication(s) filed on Jul 8, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 19-46 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 19-46 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Dec 17, 1997 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

This is the second Office Action for serial number 08/992,504, Support Stand for Holding Display Items, filed on December 17, 1997. The Application contains 28 claims numbered 19-46.

Drawings

The drawings are objected to because numeral 26 on Fig. 2 does not have a corresponding line connecting it to a guide slot as in the other figures.

Specification

A substitute specification is required pursuant to 37 CFR 1.125(a) because too many changes to the original specification have been made and because no new matter can be added to the original specification.

A substitute specification filed under 37 CFR 1.125(a) must only contain subject matter from the original specification and any previously entered amendment under 37 CFR 1.121. If the substitute specification contains additional subject matter not of record, the substitute specification must be filed under 37 CFR 1.125(b) and must be accompanied by: 1) a statement that the substitute specification contains no new matter; and 2) a marked-up copy showing the amendments to be made via the substitute specification relative to the specification at the time the substitute specification is filed.

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The amendment filed July 8, 1999, is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: vertical support members which support the display item *without being held in place by pressure or friction* and a *fluted* manual adjusting knob. Also, the entire section labeled "The Prior Art" is new matter.

The specification is objected to because it does not support "additional non-fixed L-shaped vertical support members" in addition to a "permanently fixed" vertical support member as required by claims 30 and 44.

Applicant is required to cancel the new matter in the reply to this Office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 19-46 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 19 and 33 claim that the vertical support members support the display item *without being held in place by pressure or friction*. Examiner maintains that Applicant's vertical

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support members support the display item necessarily exert some pressure and friction upon a supported display item.

Claims 27 and 42 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 27 and 42 claim a *fluted* manual adjusting knob. Examiner maintains that Applicant has not described or depicted a *fluted* manual adjusting knob in the original specification.

Claims 30 and 44 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 27 and 42 claim a “additional non-fixed L-shaped vertical support members”. Examiner maintains that Applicant has not described or depicted “additional non-fixed L-shaped vertical support members” in addition to a “permanently fixed” vertical support member.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 19-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 19-46 are rejected because it is unclear whether the combination of the support stand and the ground is being claimed or merely the subcombination of the support stand. Applicant recites a structural limitation to the ground in claims 19 and 33, indicating the combination is being claimed. For purposes of this Office action, the examiner will assume the subcombination is being claimed.

Claims 19-46 are rejected because it is unclear whether the combination of the support stand and the display item is being claimed or merely the subcombination of the support stand. Claims 19 and 33 recite the display item in a functional statement, indicating the subcombination is being claimed, yet the applicant recites a further structural limitation to the display item in claims 19, 28, 33 and 42, indicating the combination is being claimed. For purposes of this Office action, the examiner will assume the subcombination is being claimed.

Claims 27 and 42 are rejected because Examiner is uncertain as to the term "*fluted* manual adjusting knob".

Claims 19 and 33 recite the limitation "their upright portions". There is insufficient antecedent basis for this limitation in the claim.

Claims 24 and 38 recite the limitation "the flat bottom portion of that L-shape". There is insufficient antecedent basis for this limitation in the claim.

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Claims 30 and 44 recite the limitation "additional non-fixed *L-shaped* vertical support members". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-27 and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent # 1,715,722 to Smith et al. (hereinafter Smith). With respect to claims 19-21, 23-27 and 29-31, Smith discloses a support stand comprising a flat metal base (10, 11); a permanently fixed, metal, L-shaped vertical support member 15 having a flat bottom portion 18; a non-fixed, metal, L-shaped vertical support member 19 having a flat bottom portion 20; said vertical support members having upright portions 16 with flat planar surfaces; wherein an aperture (see Figure 1) exists between said vertical support members; said flat base (10, 11) having an elongated rectangular shape; and a threaded fixed guide pin 22 which communicates with a guide slot 21 in the flat bottom portion 20 providing means of slidable adjusting, connecting and affixing the vertical support member. Smith teaches a support stand wherein only one of the two vertical support members has a slot and, thus, is slidable with respect to the base. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included

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slots in both vertical support members in order to support a support member at different positions along a base member. Alternatively, it would have been obvious as a matter of design choice to have modified the support stand to have slots in both vertical members, since the applicant has not disclosed that having this feature solves any stated problem, is for any particular purpose, or it appears that the would not perform equally well without this feature.

With respect to claims 22 and 32, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have coated the flat base and vertical support members with a rust resistant plating material in order to make the support stand resistant to corrosion.

Claims 33-41 and 43-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of U.S. Patent #3,861,662 to Morse (hereinafter Morse). With respect to claims, 33-35, 37-41 and 43-45, Smith, as applied to claim 19, teaches all elements except wherein the base has wheels. Morse teaches a support stand including L-shaped vertical support members (20, 21) and a flat base 12 having wheels 16. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included wheels because one would have been motivated, in view of Morse, to have provided a means to facilitate moving an item supported on a support stand.

With respect to claims 36 and 46, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have coated the flat base and vertical support members with a rust resistant plating material in order to make the support stand resistant to corrosion.

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Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of U.S. Patent #5,822,918 to Helfman et al. (hereinafter Helfman). Smith, as applied to claim 19, teaches all elements except a tri-spoked manual adjustment knob. Helfman teaches the use of an internally threaded bi-spoked manual adjustment knob 46 used to tighten down on a threaded guide pin. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included an internally threaded bi-spoked manual adjustment knob because one would have been motivated, in view of Helfman, to have provided a means to facilitate the manual turning and tightening of one threaded member with respect to a second, oppositely threaded member. It would have been obvious as a matter of design choice to have modified the adjustment knob 46 to be tri-spoked instead of bi-spoked, since the applicant has not disclosed that having this feature solves any stated problem, is for any particular purpose, or it appears that the adjustment knob 46 would not perform equally well without being tri-spoked.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Helfman and further in view of Morse. Smith in view of Helfman, as applied to claim 28, teaches all elements except a base having wheels. Morse teaches a support stand including L-shaped vertical support members (20, 21) and a flat base 12 having wheels 16. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included wheels because one would have been motivated, in view of Morse, to have provided a means to facilitate moving an item supported on a support stand.

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Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

3,679,064 to Howkinson
3,425,565 to Sprenger
5,192,046 to Howard

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1,780,872 to Dumben
4,458,874 to Rabas et al.

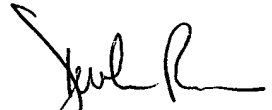
Howkinson, Sprenger, Howard, Dumben and Rabas et al. teach support stands including spaced, slidable vertical support members and a flat base.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to David Heisey, whose telephone number is 703.306.3233. The Examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M. The fax machine telephone number for the Technology Center is 703.305.3597 or 703.305.3598.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at 703.308.2168.

DH

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8-30-98


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